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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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16/771,996

02/04/2004

Patrice Bujard

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3576

324 7590 05/14/2004

CIBA SPECIALTY CHEMICALS CORPORATION
PATENT DEPARTMENT
540 WHITE PLAINS RD
P O BOX 2005
TARRYTOWN, NY 10591-9005

EXAMINER

GREEN, ANTHONY J

ART UNIT

PAPER NUMBER

1755

DATE MAILED 09/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 10/771,996	Applicant(s) BUJARD ET AL
Examiner Anthony J. Green	Art Unit 1755

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 11-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. 09/686,642.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-848)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/17/04
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____

DETAILED ACTION

Response to Amendment

1. The preliminary amendment filed 02/04/2004 has been entered and accordingly claims 11-18 are currently pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 11-14, 16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Ito et al (US Patent No. 5,464,566 and 5,520,566).

The references teach in the abstract and the claims, a coating solution composition for forming a glass gel tin film containing at least one material selected from the group consisting of a metal alkoxide, and polycondensate of the metal alkoxide, a coloring material, an alcohol solvent and a dispersant. A glass gel thin film is obtained by sintering this composition. Column 11, lines 25+ of 5,464,566 and column 11, lines 1+ of 5,520,855 lists the types of organic pigments and lake powders which are utilized as the coloring material. Column 13, lines 10+ of 5,464,566 and column 12, lines 46+ of 5,520,855 teach the types of substrates the composition is used to coat which includes a color glass gel filter for use on a display device such as a picture tube, a liquid crystal display, a plasma display etc and that the thickness of the

film ranges from 0.1 microns to 3 microns. Column 6, line 33+ of 5,464,566 and column 6, line 26+ of 5,520,855 teaches that a perfectly or almost perfectly vitrified glass gel film is produced which surrounds the coloring material with the structure.

The instant claims are met by the references as the references appear to teach compositions that encompass that which are instantly claimed. The thickness of the film is the same as instantly claimed and the references teach the use of pigments that encompass those which are instantly claimed. Accordingly the burden of proof is on the applicant to show that the instant claims are not met by the references.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ito et al (US Patent No. 5,464,566 and 5,520,566).

The instant claims are rendered obvious by the references. While the references do not recite that the composition is used to coat glass bottles, it does teach that it is used to coat various glass surfaces and accordingly in the absence of evidence to the contrary one would have found it obvious to use the coating composition to coat any type of glass material without producing unexpected results. This is believed to be

within the level of routine experimentation and optimization within the art. Accordingly the instant claims are obvious over the references.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony J. Green whose telephone number is 571-272-1367. The examiner can normally be reached on Monday-Thursday 8:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark L. Bell can be reached on 571-272-1362. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Anthony J. Green
Primary Examiner
Art Unit 1755

ajg
May 28, 2004